# NextGen Full Send

Preparing Law Schools for the Transition from the UBE to the NextGen Bar Exam

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Agenda

- **Brief Presentation (15 min)**
  - Review Skills and Tasks Used to Test Skills on NextGen Bar Exam
  - Show "Sample" Prompts for Testing Skills
- **Moderated Panel (30 min)**
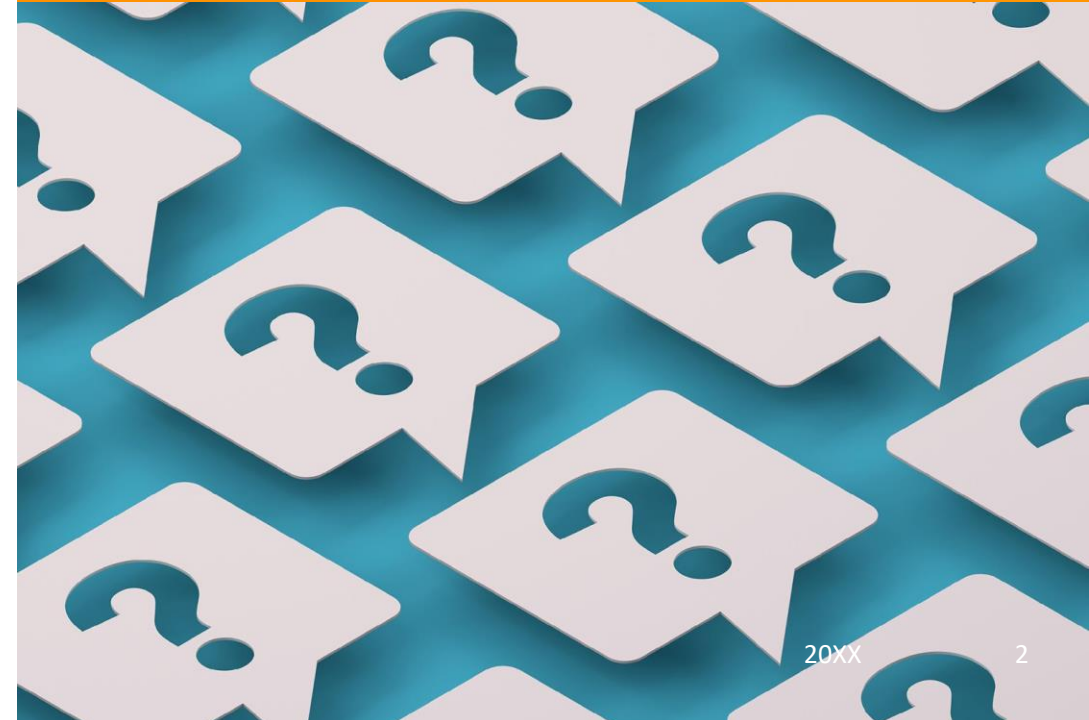
More Skills

Less Doctrine

What we know and don't know: item sets

WHAT WE KNOW

NextGen will be an integrated exam that includes item sets.

What doctrine-focused items sets may look like and how they might incorporate different skills.

WHAT WE DON'T KNOW

What research focused item sets may look like.

What writing focused item sets may look like.

NEW

Research and Writing Task Lists

Possible Tasks to Test Research Skills

Task 1	Identify an accurate way to frame the research questions that need to be answered.
Task 2	Identify which words or elements in the provided source seem legally significant and/or potentially ambiguous.
Task 3	Identify efficient research strategies (including appropriate search terms) that are likely to uncover other legal sources to assist in this interpretation.
Task 4	Identify the roles and differing characteristics of the sources, including their authoritative weight.
Task 5	Identify the dispositive facts from the opinions, as well as the facts in the client's matter that are analogous to and/or distinct from the dispositive facts in the opinions.
Task 6	Identify other sources, search terms, and/or research strategies that might be used to update sources or find additional sources.
Task 7	Identify which sources are relevant to or dispositive of a legal issue in the matter.
Task 8	Identify whether the sources are sufficient to complete an assigned research or other lawyering task.

Possible Tasks to Test Writing Skills

Task 1: Draft an email to a client explaining the legal implications of a course of action, updating the client on the status of the client's matter, and/or providing advice on the next steps to be taken in the matter.

Task 2: Draft the specified sections of a complaint or an answer to a complaint.

Task 3: Draft the specified sections of an affidavit.

Task 4: Draft or edit selected specified provisions of a contract.

Task 5: Draft specified section(s) of the document, demonstrating legal analysis in completing lawyering tasks. This task may include: an objective memo; a persuasive brief; or another common document, such as a mediation brief, an opinion letter, or a draft proposal for a contract.

NCBE says

"[T]he majority of stakeholders agree[] that assessing legal writing is something that NCBE does relatively well through the MPT. For this reason, we anticipate having one to two MPT-style extended response drafting items (probably 60 minutes apiece) per exam."

- **Objective**: Demonstrate multiple legal skills in context of a scenario raising one or more substantive or procedural legal issues

- **Layout**: There may be 4-6 questions related to the scenario, some of which will require written responses of varying types and lengths
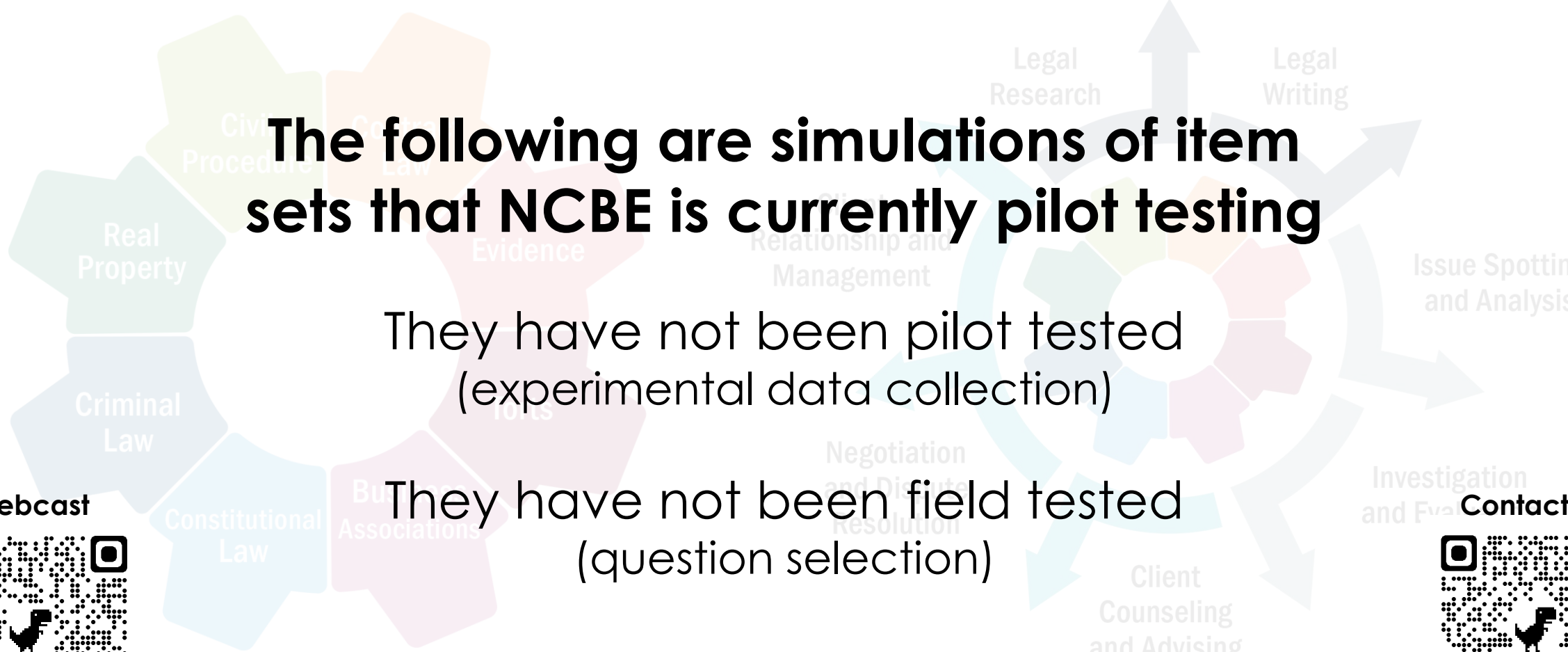
Example:

Issue Spotting and Analysis

Investigation and Evaluation

Evidence

Criminal Law

Client Counseling and Advising

Negotiation and Dispute Resolution

Example Item Sets: Legal Research
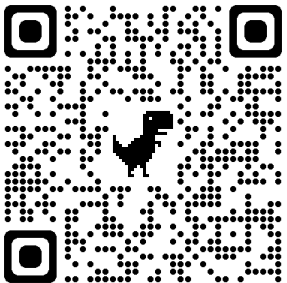
Example Item Sets: Legal Research

The following are simulations of item sets that NCBE is currently pilot testing
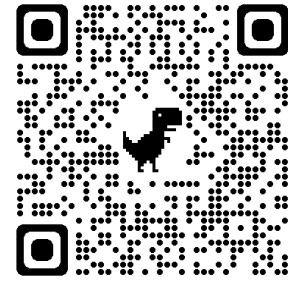
They have not been pilot tested
(experimental data collection)

They have not been field tested
(question selection)

Webcast

Contact us

Example Item Set 1: Early Stage of Research

The Facts

Our client, Peterson Engineering Consultants (PEC), seeks our advice regarding issues related to its employees' use of technology. PEC is a privately owned, non-union engineering consulting firm. Most of its employees work outside the office for over half of each workday.

…

Prompts related to the scenario:

- What **legal issue** will determine whether PEC is potentially liable for the misuse of company-owned technology?

- List **two known facts** that are likely to be legally significant in determining PEC's potential liability for the misuse of company-owned technology.

- List **four steps** that you would take in researching this issue that would help you address the client's concern.

- List **four search terms** that you would use in your research to find relevant legal sources.

Example Item Set 2: Later Stage of Research

File

- Memorandum from Brenda Brown
- Excerpts from Peterson Engineering Consultants Employee Manual
- Results of 2013 Survey by National Personnel Association

Library

- Restatement (Third) of Agency § 2.04
- *Fines v. Heartland, Inc.*, Franklin Court of Appeal (2011)
- *Lucas v. Sumner Group, Inc.*, Columbia Supreme Court (2012)

The above documents would be provided. They have been omitted here to save space and time.

How do you plan to use [resource] in your analysis? Select two.

(A) As background or framework of analysis.

(B) In a rule statement.

(C) As highest-level mandatory authority.

(D) As persuasive authority to fill a gap in mandatory authority.

(E) As persuasive authority to make a policy argument.

(F) To interpret ambiguous language.

Other prompts related to the scenario:

- Based on your review of section 2.04 of the Restatement (Third) of Agency, list **two search terms** that you would use to find additional sources relevant to the PEC matter.

- List two relevant facts from *Fines v. Heartland, Inc.* that are **analogous** to the facts in the PEC matter.

- List two relevant facts from *Fines v. Heartland, Inc.* that are **distinguishable** from the facts in the PEC matter.

- List three **dispositive** facts from *Lucas v. Sumner Group, Inc.*

Let's Talk to Our Panel

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Thank You!